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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,161	11/14/2000	Sundaresan Jayaraman	GTRC77	3391

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EXAMINER
RUDDY, DAVID M

ART UNIT	PAPER NUMBER
3739	9

DATE MAILED: 04/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/713,161	Applicant(s) JAYARAMAN ET AL.
	Examiner David M Ruddy	Art Unit 3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 January 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,3,4,5,7,9,11,14,16,18,20,22,24,28,30, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Flick (patent # 5,374,283). Flick discloses an electrode fabric/garment device comprising (as explained in column 2, lines 50-66) conductive fibers formed of woven and knitted fiber networks consisting of nylon and metal. Flick further discloses a garment type embodiment of a conductive fiber network as seen in figures 1-8. As seen in figure 1and the disclosure relevant thereto, Flick discloses the steps of connecting the garment to a monitor and/or an impulse generator stimulator.

Flick further discloses a snap type connector lead connecting the fabric to a data output terminal as embodied by elements 24,25,32,44, and 45.

Claims 1-33 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Post et al (patent #6,210,771).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 6, 8, 10, 12, 15, 17, 19, 21, 23, 25, 29, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flick. With reference to the above rejections Flick discloses all that is claimed except the expressed disclosure of using a conductive paste between the fiber and the data output lead.

The examiner takes official notice of the old and notorious use of conductive pastes, creams, gels etc. to aid in the electrical conduction (to or from a patient) of a biomedical signal or impulse. The use of such electrolytes are known to increase signal conduction and quality by reducing contact impedance between elements. Accordingly, the use of

conductive paste with the device of Flick would have been obvious to one having ordinary skill in the art.

Response to Arguments

It is the examiner's position that Applicant reads too much into the phrase "integrated individually conductive fibers" in the arguments presented 1/23/2003. Applicant appears to be arguing that the phrase "integrated individually conductive fibers" automatically excludes from that definition fibers which attain conductivity after a fabrication process which "metalizes" the fibers (see column 2 of Flick). The examiner disagrees with this hard and fast interpretation of the phrase. In fact Applicant's own specification includes an embodiment where the fibers attain conductivity through a fabrication process (see the reference to "doped inorganic fibers" page 6, line 8). Whatever the fabrication process, during use the fibers of the system of Flick **are** conductive, **are** individually conductive, and (when compiled as in the end product disclosed) **are** integrated individually conductive fibers. Without being conductive how else is the uniform current passed through the material of Flick?

It is the examiner's position that the distinction Applicant is trying to make between the phrase "integrated individually conductive fibers" and fibers fabricated to be conductive is not a patentable one. The use of the word "individually" does not preclude the embodiment of Flick. After being metalized the fibers are all **individually conductive,** and any distinction made by Applicant is relevant only to the process by

which the fibers are created. The fact that the fibers attain conductivity via a "metalization" process does not mitigate their ultimate conductivity. In short, something more than the word "individually" will need to be recited in the claim in order to make a patentable distinction. Applicant is reminded that "[d]uring patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process." In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). Accordingly, the rejections have been maintained.

In response to applicant's argument that the reference of Post fails to show certain features of Applicant's invention, it is noted that the features upon which applicant relies (i.e., the spacing of fibers in the weave and the absence of unidirectional conduction) are **not** recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The use of the word "fully" does not preclude the embodiment of Post. The conductive fabric of Post is still "fully" conductive regardless of the fact that a portion of the garment created uses non-conductive fabric.

The fact that the design of Post prevents short circuiting, does not prevent it from meeting the claim limitation "integrated". The passages of column 9, line 56 – column 10, line 5, set forth that the conductive fibers of Post are in fact integrated.

In regard to Applicant arguments on pages 4-5 of the most recent response, it is the examiner's continued position that the claims of the present application do not find support under 35 U.S.C. 112 back to the effective filling date of 9/22/1997. Applicant argues that presence of the terms "sensate liner", "monitor", and "metallic fibers" are intended to provide support for the claimed terms "wearable motherboard", "data-output terminal", and "information infrastructure" respectively. Noting the strict requirements imposed by 35 U.S.C. 112 first paragraph regarding new matter and enablement situations, it appears somewhat tenuous to claim support through such different terms. Nothing prevents Applicant from claiming support back to 9/22/1997 using the specific terms and phrases disclosed in the 6,145,551.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

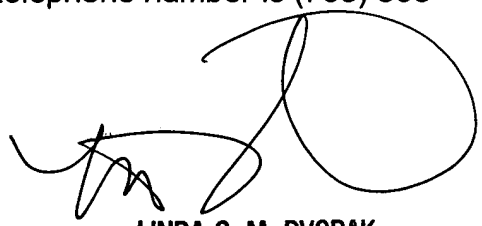
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M Ruddy whose telephone number is (703) 308-3595. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (703) 308-0994. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-3376 for regular communications and (703) 746-3376 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



LINDA C. M. DVORAK
SUPERVISORY PATENT EXAMINER
GROUP 3700

DR
April 4, 2003